



CANNON BUILDING
861 SILVER LAKE BLVD., SUITE 203
DOVER, DELAWARE 19904-2467

STATE OF DELAWARE
DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION

TELEPHONE: (302) 744-4500
FAX: (302) 739-2711
WEBSITE: WWW.DPR.DELAWARE.GOV

PUBLIC MEETING MINUTES:	COUNCIL ON REAL ESTATE APPRAISERS
MEETING DATE AND TIME:	Tuesday, May 15, 2012 at 9:30 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room A , 2nd floor of the Cannon Building
MINUTES APPROVED:	June 19, 2012

Members Present

William Diveley, Chair, Professional Member
Brad Levering, Professional Member
Richard Wheeler, Public Member
Frank Long, Public Member
Ronald Mandato, Vice Chair, Professional Member
Gary V. Parker, Professional Member
Frank Smith, Public Member
Yvonne Rickards, Public Banking Member
Georgianna Trietley, Professional Member

Division Staff/Deputy Attorney General

Patricia Davis-Oliva, Deputy Attorney General
Nicole Williams, Administrative Specialist II
Kay Warren, Deputy Director of the Division

Members Absent

None

Others Present

Andrew Smith
Ted Ganderton

Call to Order

Mr. Diveley called the meeting to order at 9:38 a.m.

Review and Approval of Minutes

The Council reviewed the minutes from the April 17, 2012 meeting. Ms. Trietley noted for the record her name was not present in the list of members present at the meeting in April. Ms.

Williams will make that correction. Mr. Smith made a motion to accept the minutes with the correction, seconded by Mr. Mandato. Motion carried unanimously.

Unfinished Business

Tabled: Discussion on Statute and Regulation Language for Inactives and Reactivation

The Council moved on to the next agenda items to allow Ms. Davis-Oliva the opportunity to obtain the information regarding the language for inactive status and reactivation in the rules and regulations.

Ms. Davis-Oliva stated the Council's rules and regulations contain language that allows licensees to go in inactive status. She stated there are some functional problems with the rules administratively that need to be fixed. She advised that administratively it would be easier to have an inactive status over a fixed period of time that is not renewable. If the Council feels that the inactive licensee needs to renew and complete CE, then there needs to be a required inactive status fee. The Council's other option is at the time of reactivation the licensee has to show completed CEs at the time of reactivation for a specified period of time rather than doing CE every renewal period. However if they do the fixed period of six (6) years, then to not require CE, as it needs to be defined differently in the rules and regulations. Mr. Mandato stated that if you are required to do CE then you are not inactive. Ms. Trietley stated that her real estate broker license is on inactive status but she has to pay a fee and complete CE ever two years. Ms. Trietley stated that regardless of CE completion there should be an inactive renewal fee paid. Mr. Diveley stated that this situation ties directly into Mr. Andrew Smith's situation regarding CEs and being inactive. Mr. Levering stated to follow the realtors inactive status requirement in requiring the licensees to complete an online renewal and pay an inactive license fee such as the Real Estate Commission (REC). The other Council members concurred. Ms Davis-Oliva stated that currently the language states a fixed period so the Council needs to determine if they want to continue with a fixed period or not. Mr. Levering stated to not have a fixed period since they are doing CE every two (2) years. Ms. Davis-Oliva requested clarification on the time period of inactivation. The Council agreed for a no fixed period. Mr. Levering made a motion to amend the regulations to allow for an indefinite period of inactive status and require licensees to maintain the required CE for every renewal period and pay an inactive renewal fee, seconded by Ms. Trietley. Motion carried unanimously. Ms. Davis-Oliva will amend the inactive status rule to be noticed for a public hearing.

Status of Complaint:19-08-10

Mr. Diveley advised that this complaint was dismissed by the Division.

New Business

New Complaints

19-06-12 – Complaint assigned to Mr. Mandato.

Review of Re-Application Letter for Andrew Smith, Expired CGRPA 1999

The Council moved on to the next agenda items to allow Ms. Williams time to provide the Council with a copy of the letter from Mr. Smith.

The Council reviewed Mr. Smith's documentation. Ms. Davis-Oliva clarified that his license is not inactive as it expired as of 1999. Mr. Levering advised that Mr. Smith will need to start from the beginning by providing an experience log and the remaining requirements of education and take the Certified General exam. The Council took a five minute break at 10:42 a.m.

The Council reconvened at 10:53 p.m. Ms. Williams stated for the Council that Mr. Smith's situation is that he has the experience which was completed to originally get licensed in 1991

and needs to retake the Certified General exam and the additional qualifying education. The Council further discussed. Mr. Levering made a motion to approve Mr. Smith to sit for Certified General exam after he has taken and submitted proof of completion of the 2012-2013 15-hour National USPAP course with exam. The Council determined that Mr. Smith needs to submit additional information before he can be approved to sit for the exam. Mr. Levering withdrew his motion. The Council determined to send a response letter to Mr. Smith stating that he must submit a log of experience hours and complete the 15-Hour National USPAP course with exam.

Ratification of Issued Licenses

Mr. Parker made a motion to ratify the list of licenses issued, seconded by Mr. Mandato. Motion carried unanimously.

Benjamin Bauer, Trainee: Supervisor – William R. McCain, CGRPA
Kenneth Brown, Trainee: Supervisor – Carrie Brown, CRRPA
Dennis Romagnano, MD, VA, DC – CRRPA
Richard Davis, MD – CRRPA
Brad Harley, PA – CRRPA
Jerrold McCarron, NJ, PA – CGRPA
Harry Kimball, Jr., MD - CGRPA

Ratification of Approved Continuing Education Activities

Ms. Trietley made a motion to ratify the approved education activities listing, seconded by Ms. Rickards. Motion carried unanimously.

Review of Temp Applications for discussion only

Mr. Diveley read the list of names approved for temporary permits. There was no discussion by the Council.

Discussion on Updated Legislation from Rep Briggs-King

The Council reviewed the bill submitted by Representative Briggs-King. Mr. Diveley stated that this bill removes the authority of the Council to regulate assessors. Mr. Mandato stated that Mr. Parker developed a letter of response to the bill on behalf of the Council. Mr. Parker drafted a response letter for the Council to review. Mr. Parker will forward the letter to Ms. Davis-Oliva for her review and final proofing. Mr. Levering addressed the Council regarding the letter that Mr. Paul Clark sent to Director Collins. Ms. Warren stated that Mr. Collins requested feedback regarding a response to Mr. Clark. The Council determined to send a response letter to Mr. Clark signed by the Council Chair person. Ms. Davis-Oliva reiterated that the argument that the assessors have made in that the Council cannot hold them to the standards of USPAP because Standards 1 and 2 are not what the assessors do; however the Council's response is that correct the assessors do not perform Standards 1 and 2 of USPAP rather for mass appraisals they would only be held accountable to Standard 6 of USPAP. Ms. Davis-Oliva inquired if the Council would be open to representing that they will clarify the regulation so that rather than it stating that assessors will be held to the USPAP standards, it would state that they would be held to the USPAP Standard 6. Ms. Trietley agreed with Ms. Davis-Oliva's suggestion. Mr. Diveley rebutted that there should not be any limitations to USPAP as it could cause future limitations. Mr. Mandato stated that Standards 1 and 2 are very important in USPAP as they cover accuracy and reporting.

Mr. Parker stated that the protocol for assessments is mass appraisal Standard 6 unless there is a property that does not fit the universal mass appraisal model such as a nuclear power plant. That type of property assessment would have to be valued based on Standards 1 and 2. He further stated that if the Council limited the Standards of USPAP then that would constrict the

assessors to not be able to assess the type of property like a nuclear power plant and would have to hire an outside contractor. The Council does not want to constrain the assessors to that point as they would not have the budget for obtaining outside contractors. Ms. Trietley concurred and added that budgets get cut and then training gets cut as well.

Mr. Diveley requested clarification that the Bill is stating that the assessors would not be regulated. Ms. Davis-Oliva responded that was correct and that the Council does not have a plan of action if the bill was to get passed. Mr. Parker stated that essentially this bill would be inactivating a requirement developed by the Federal government over 20 years ago that has been repeatedly deferred over the years since 1990. Mr. Levering stated that from his understanding the assessors' primary argument is reassessment and that the Council is enacting these regulations with an expectation that there will be a reassessment completed. Mr. Levering clarified for the record that the regulations are not based on any reassessment and the reassessment has nothing to do with what the Council is proposing. Mr. Diveley stated that the assessors' argument is that the regulations the Council has established for them to follow will require a reassessment. Mr. Mandato stated that at the hearing for the proposed regulations the Council stated that no reassessment would have to be done.

Ms. Warren stated that the old bill is on Sunset Committee agenda for Wednesday the 16th of May at 4:15 p.m. Ms. Warren stated that the old bill was stricken and the new bill, HB 336, was reintroduced. The Council discussed who will attend the Sunset Committee meeting scheduled for tomorrow, the 16th. Mr. Diveley suggested to have Mr. Collins just read a letter from the Council on their behalf. Ms. Warren stated that it would be best to have a Council member present to represent their standpoint. The Sunset Committee meeting will be at Legislative Hall at 4:15 p.m. Ms. Davis-Oliva stated clarified that the Council needs to decide if they want to take an official position as a Council and also to address the factual inaccuracies in the proposed bill in a written letter to Mr. Collins. The Council's position last year was to oppose the assessor's bill to remain unregulated. Mr. Levering stated to take that same position this year. Mr. Parker concurred and added that Council is now in a better situation to sustain their position since there is an assessor on the Council. Ms. Davis-Oliva stated to also include that in their letter. Ms. Trietley stated that she understands the Council's position and that the assessors are saying they are not opposed to the education but took offense as they felt they were not included in writing the regulations. Ms. Trietley stated that since she is not versed well on either side that she feels it is best if she not took a position one way or the other. Mr. Diveley stated that the Council was very adamant in including the assessors in all subcommittee meetings and regular Council meetings in following the demands of the Sunset Committee. Ms. Trietley stated that it needs to be emphasized that it was the Sunset committee that made this law, not the Council. Mr. Wheeler suggested to not involve Ms. Trietley in the Council's official position. Mr. Levering said to make it clear that both the Council and the assessors knew about this law and neither party acted upon the law for over 20 years until the Council as per the Sunset Committee enforced that the Council has to begin working on regulations for licensing assessors. The assessors were made aware of every meeting the Council held regarding the development of these regulations. Mr. Parker stated that the Council needs to notify Phil McGinnis, Scott Kidner, Chuck Brown with the Appraisal Institute, and Doug Nickel with Delaware Association of Appraisers, about the assessor bill and to have representation at the meeting tomorrow. He further reiterated that the Council does need to again stand by their original position to oppose this House Bill being presented and giving the reasons to the Council's opposition in the letter to Mr. Collins.

Mr. Levering stated that he will not able to attend the Sunset Committee meeting tomorrow due to a prior appointment and strongly urged someone from the Council to attend. Mr. Parker and Mr. Diveley stated that they will check their schedules and make an attempt to attend. Ms.

Warren requested Ms. Williams to contact the appropriate parties stated by Mr. Parker. Ms. Warren inquired if any surrounding states regulate assessors. Ms. Davis-Oliva responded that they do, however those States have more routine property reassessments. She stated that the assessors argue that although surrounding states regulate assessors they are under a different situation that the State of Delaware as DE has not done a reassessment since 1981, 88, which is the most current reassessment.

Mr. Diveley stated to definitely focus on the facts within the letter and make it clear that the regulations are a result of the Sunset Committee not the Council. Mr. Parker made a motion that the Council forward their response letter to Mr. Clark on to Mr. Collins emphasizing the facts of the rules and regulations adopted by the Council with the Council's opposition to HB336 and that the Council is moving forward with the process of developing applications and log forms for assessors to apply for licensure, seconded by Mr. Wheeler, Ms. Trietley abstained. The motion carried by majority vote.

Ms. Warren exited the meeting at 10:21 a.m. The Council moved back to agenda item 3.1 for discussion on the language regarding inactivation and reactivation in the regulations.

Other Business before the Council (for discussion only)

There was no other business before the Council.

Public Comment

Mr. Andrew Smith was in attendance and addressed the Council regarding clarification of his request. He stated that he did complete the required qualifying education hours and did complete the required experience hours when he was originally licensed in 1994. He understands the Council's ruling to take the 15-Hour USPAP course with exam and retake the Certified General exam but is not sure how he needs to re-submit the experience as it was so long ago. Mr. Diveley requested from Mr. Parker and Ms. Trietley for recommendations on the type of log Mr. Smith would need to submit as his experience would not be on the traditional experience log. There was no further discussion.

Ted Ganderton addressed the Council regarding is failure to comply with the consent agreement. Ms. Davis-Oliva reviewed the follow up letter sent to Mr. Ganderton on March 28, 2012 regarding his failure to comply with the consent agreement. Mr. Ganderton stated that he did not receive the mailed copy of the letter but did receive the email from Ms. Williams with the letter attached and a copy of the experience log form. Ms. Davis-Oliva reminded the Council the terms of the requirements of the follow up letter pertaining to the experience log due dates. Mr. Ganderton has paid the disciplinary fee. The Council discussed Mr. Ganderton's situation. Mr. Parker made a motion to allow an additional 60 days for Mr. Ganderton to comply with the original consent agreement, seconded by Mr. Levering. Motion carried unanimously.

Next Meeting

The next meeting is scheduled for June 19, 2012 at 9:30 a.m. in Conference Room A second floor, Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

Adjournment

Mr. Parker made a motion, seconded by Ms. Trietley to adjourn the meeting. There being no further business before the Council, the meeting adjourned at 11:29 a.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Nicole M. Williams". The signature is written in a cursive, flowing style.

Nicole M. Williams
Administrative Specialist II

The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Commission members and the public in supplementing their personal notes and recall for presentations.